

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION**

**INTERIM APPLICATION NO.2371 OF 2021
IN
TESTAMENTARY PETITION NO.2188 OF 2016**

Narhari Shridhar Patkar ...Applicant/Org. Petitioner
V/S
Shashikant Prabhakar Kamat (Deceased)...Respondent

Mr. Prabhu Velar i/by Devdatta Ajit Sakhalkar for Applicant.

**CORAM : R. I. CHAGLA, J.
DATED : 26th OCTOBER, 2021.**

P.C.

Heard learned counsel for the Applicant/Original
Petitioner.

2. By this Interim Application, the Applicant is seeking
directions in respect of un-administered immovable property viz.
Room No.9177, Building No.235, Meghdoot CHS, Kannamwar Nagar-
2, Vikhroli East, Mumbai-400083 as mentioned at Sr. No.6, in the
Schedule of Assets annexed to the Grant of Probate dated 14th
December 2018, issued by this Court in favour of the Applicant and

to permit the Applicant to transfer the said property in the name of Smt. Kumudini Prabhakar Kamat, the mother of the deceased, instead of Smt. Shyamala Ramkrishna Tendulkar.

3. The Applicant being a sole executor under the last will and testimony of the deceased Shri. Shashikant Prabhakar Kamat had filed Testamentary Petition No.2188 of 2016 for grant of probate of the last will of the deceased. This Court by order dated 14th December 2018 granted probate of the said last will of the said deceased in favour of the Applicant/Petitioner.

4. It is stated by the Applicant that after obtaining the grant of probate of the last will of the said deceased, the Applicant as sole executor had administered all the immovable property mentioned in the schedule of assets annexed to the said grant of probate dated 14th December 2018, except the said immovable property at Serial No.6 in the schedule of assets which have been described above.

5. It is further stated by the Applicant that Smt. Shyamala Ramkrishna Tendulkar who is the sole legatee in respect of the said

property under the last will and testimony of the said deceased is not ready to accept the said request of the said property and has filed an Affidavit-cum-declaration dated 31st August 2021. In the said Affidavit-cum-declaration Smt. Shyamala Ramkrishna Tendulkar has mentioned that she does not wish to have the said property bestowed upon her and is relinquishing all the rights, title and interest in respect of the said property of the deceased under the last will and testimony and has no objection if the said property is transferred to the mother of the deceased Smt. Kumudini Prabhakar Kamat.

6. In view of what has been stated in the Interim Application and considering the Affidavit filed by Smt. Shyamala Ramkrishna Tendulkar, the sole legatee in respect of the said property under the last will and testimony of the said deceased, the relief sought for in the Interim Application is required to be granted. Hence the following order:-

- (i). The Applicant is permitted to transfer the said immovable property vis. Room No.9177, Building No.235, Meghdoot CHS, Kannamwar Nagar-2,

Vikhroli East, Mumbai-400083 as mentioned at Sr. No.6, in the Schedule of Assets annexed to the Grant of Probate dated 14th December 2018, issued by this Court in the name of Smt. Kumudini Prabhakar Kamat, the mother of the deceased.

(ii). Interim Application is disposed of in the above terms.

(R. I. CHAGLA, J.)